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FILED 06 2004

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In re Application of
Stephen N. Davies, et al.
Application No. 09/647,272
Filed: November 20, 2000
For: METHODS AND COMPOSITIONS FOR
WATER CONTROL

:
:
: **DECISION ON PETITION**
: **TO WITHDRAW THE**
: **HOLDING OF ABANDONMENT**

This is in reply applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on November 10, 2003.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action dated January 7, 2003 and a Notice to that effect was mailed on October 8, 2003.

Petitioner states that a response was filed on April 25, 2003 by facsimile transmission. The copy of the response submitted with the petition includes a Certificate of Transmission dated April 25, 2003.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

- (1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and
- (2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate.

Further, the copy of the facsimile confirmation/transmittal page having the April 25, 2003 date cannot be relied upon as proof of timely filing the response. See section 512 of the MPEP.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."



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SNM/cps: 1/21/04